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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,926	12/23/2004	Makoto Ishikawa	1422-0655PUS1	7260
2292 7590 04/16/2007 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER KUGEL, TIMOTHY J	
			ART UNIT	PAPER NUMBER
			1712	
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		04/16/2007	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/16/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/518,926

Applicant(s)

ISHIKAWA ET AL.

Examiner

Timothy J. Kugel

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 4,6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>see attached</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. Claims 1-6 are pending as amended on 23 December 2004.

Priority

2. Receipt is acknowledged of papers submitted under 35 USC 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

3. The information disclosure statements submitted on 23 December 2004, 23 March 2005, 23 November 2005 and 19 May 2006 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statements.

Specification

4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

5. Claims 4 and 6 are objected to because of the following informalities:

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Neither of claims 4 or 6 begins with an object such as 'A' or 'The'. For the purpose of examination, each of claims 4 and 6 were construed to recite, "A Foodstuff foodstuff comprising..."

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 USC 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-6 are rejected under 35 USC 102(b) as being anticipated by US Patent 6,193,986 (Sakurada hereinafter).

Sakurada teaches a foodstuff (Column 1 Lines 5-13) comprising an oil-in-water emulsion (Column 1 Lines 14-33) wherein the oily phase comprises 0.5 to 50% of an emulsifier (Column 6 Lines 16-18)—which are surfactants having an HLB of not higher than 10 and preferably not higher than 1 (Column 4 Lines 44-52) including hexaglycerol trioleate and sucrose fatty acid esters as exemplified in the instant specification alone of in combination (Column 4 Line 53 – Column 5 Line 31)—and an oily component—including arachidonic acid, eicosapentaenoic acid and docosahexaenoic acid (Column 5 Line 47 – Column 5 Line 15).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

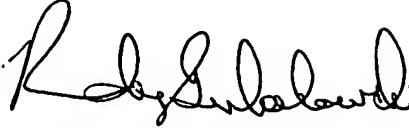
US 6,346,289	02-2002	Nasaka et al.
US 2002/0028280	03-2002	Yamaguchi et al.
US 2004/0077604	04-2004	Lichtenberger et al.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Kugel whose telephone number is (571) 272-1460. The examiner can normally be reached 6:00 AM – 4:30 PM Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TJK
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RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
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